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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/071,559      | 02/08/2002  | Mark F. Bares        | M297.12-0256        | 9866             |

7590 10/06/2003

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| EXAMINER |
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SHRIVER II, JAMES A

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3618

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,559

Applicant(s)

BARES ET AL.

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 3,5-8 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Preliminary Amendment*

1. Applicant's preliminary amendment received on February 8, 2002 has been entered, wherein new claims 16-18 were added.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. **Claims 2, 9 and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** In claim 2, the phrase "said frame is the frame of a machine" is vague and indefinite. Specifically, the use of the word "frame" twice makes it unclear whether these are the same components or distinct components. Additionally, it is unclear whether "a machine" is the same component as set forth previously in claim 1 as "a powered machine."

Starting on line 4 of claim 2, the phrase "a direction of movement such the actuator panel is leading the movement" is unclear and indefinite.

3. Claim 2 recites the limitation "said control" in line 3. There is insufficient antecedent basis for this limitation in the claim. Examiner cannot determine precisely whether applicant is claiming the control lever or control system.

Art Unit: 3618

4. Claim 9 recites the limitations "the frame member" in line 3 and "the valve block" in line 5. There is insufficient antecedent basis for these limitations in the claim. Additionally, in line 4, the phrase "a mounting bracket" is indefinite because Examiner cannot determine if this is a separate component or the same as the actuator bracket.

5. Claim 13 recites the limitation "the portion of the lever" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Additionally, in line 4, the phrase "the valve" is indefinite because claim 11 set forth a hydraulic control valve having valves, so Examiner cannot determine which one claim 13 is referring to.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-2, 4, 9 and 11-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Keagle et al. (US Patent 6,460,640 B1).** Keagle et al. discloses an actuator panel (See Fig. 11, not numbered) for a control system (24) on a powered machine (2) having a frame (4) having a pivoting control lever/hydraulic control valve (26), said control lever having a shaft portion (74,112) extending outwardly from a pivot axis of the control lever, the control system and the control lever being mounted on the frame for controlling a ground drive (28) for the frame, the actuator panel being pivotally mounted (See Fig. 11) on said frame, said actuator panel being

Art Unit: 3618

urged in a first direction extending outwardly from the frame, and having an actuator bracket (See Fig. 11, a bracket is mounted on the panel) mounted thereon adjacent to the shaft portion, the actuator bracket moving to engage the control lever and move the control lever to a selected position from a first position when the actuator panel pivots inwardly toward the frame (See Fig. 11, where the pivotable rear panel has a bracket mounted thereon which engages plate (112) causing the control lever to rotate); wherein said frame is the frame of a machine (2) that is self-propelled, and said control controls movement of the frame in a direction of movement such the actuator panel is leading the movement, the actuator panel pivoting in an opposite direction to move the control lever to its neutral position; wherein said actuator panel is pivotally mounted on the frame at a first location adjacent the rear of the powered machine, and tapers rearwardly and downwardly at an angle (See Fig. 11); and wherein said pivoting actuator has a major portion extending rearwardly of a rear of the frame member, and has a mounting bracket extending through an opening in the rear panel toward the valve block; wherein the first portion of the control lever operates controls to move the frame in reverse, and the retracted position of the control lever stops reverse movement of the frame; the actuator levers extending above the frame for manual operation by an operator standing at the rear of the machine; wherein said actuator comprises an actuator panel extending laterally across the rear portions of the frame, and having brackets for pivotally mounting the panel on opposite sides of the frame; wherein the portion of the lever comprises actuator rods extending outwardly from the levers (See Fig. 11), and said levers being pivotally mounted to the valve for pivotal movement between its positions.

Art Unit: 3618

***Allowable Subject Matter***

3. Claims 3, 5-8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, the prior art does not disclose wherein the actuator panel bracket is adjustably mounted on the actuator panel (See Figure 4, where the bracket is adjustably mounted to the actuator panel).

Regarding claim 5, the prior art (specifically Keagle et al.) did not disclose wherein the control lever is mounted on a valve block, an actuator spool in said valve block and said actuator spool being linearly moveable and having a portion pivotally mounted to the lever at a second pivot spaced from the pivot of the lever to the valve block, the control lever including an actuator rod extending in a direction toward the pivoting actuator panel.

***Conclusion***

4. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

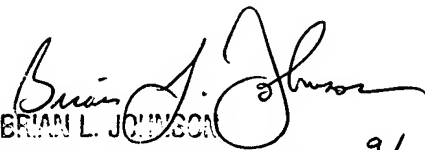
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3618

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver  
Examiner  
Art Unit 3618

JAS

  
BRIAN L. JOHNSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
9/24/03